

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

John F. Green, #278705)	
)	C/A No. 6:08-1278-MBS-WMC
Petitioner,)	
)	
vs.)	
)	ORDER
Anthony Padula, Warden,)	
)	
Respondent.)	
)	

Petitioner John F. Green is an inmate in the custody of the South Carolina Department of Corrections, currently serving twenty-five year concurrent sentences for three counts of kidnaping and one count of armed robbery. On April 9, 2008, Petitioner, appearing *pro se*, filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Pet. Under 28 U.S.C. § 2254 For Writ of Habeas Corpus by a Person in State Custody [hereinafter Pet.]

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge William M. Catoe for a Report and Recommendation. On June 24, 2008, Respondent filed a Motion for Summary Judgment. Mot. for Summ. J.; Return and Mem. of Law in Supp. of Mot. for Summ. J. On June 25, 2008, pursuant to Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), Petitioner was advised of the summary judgment procedure and the possible consequences if he failed to respond adequately. Petitioner filed a response in opposition to Respondent's motion on July 23, 2008. Pet.'s Mot. in Opp'n to Return and Mem. of Law in Supp. of Mot. for Summ. J. Respondent filed a reply to Petitioner's response on August 4, 2008. Resp't Reply to Pet'r Resp. to Mot. for Summ. J.

On January 20, 2009, the Magistrate Judge filed a Report and Recommendation in which he recommended that Respondent's motion for summary judgment be granted. Report and

Recommendation. Petitioner filed objections to the Report and Recommendation on January 28, 2009. Mot. to Dismiss Resp't Summ. J. Mot. Incorpor. W. Mot. to Not Adopt the Magistrate's Judge Recommendations and Reports.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a *de novo* determination of any portions of the Report and Recommendation to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). The district court is obligated to conduct a *de novo* review of every portion of the Magistrate Judge's report to which objections have been filed. Id. However, the district court need not conduct a *de novo* review when a party makes only general and conclusory objections that do not direct the court to a specific error in the Magistrate Judge's proposed findings and recommendations. Orpiano v. Johnson, 687 F.2d 44, 47-48 (4th Cir. 1982).

Petitioner filed an objection to the Report and Recommendation in which he continued to assert already-raised grounds for habeas relief. Mot. to Dismiss Resp't Summ. J. Mot. Incorpor. W. Mot. to Not Adopt the Magistrate's Judge Recommendations and Reports. Petitioner failed, however, to direct the court's attention to a specific error in the Magistrate Judge's proposed findings and recommendations. Specifically, Petitioner argues that this court should reject the findings of the Magistrate Judge as those findings are "in error and conflict with laws." Id., at 3. However, Petitioner never informs this court what aspect of the Report and Recommendation violates the law, nor does Petitioner indicate which laws he believes were erroneously ignored. Nevertheless, the

court has conducted a *de novo* review of the petition and concludes that the Magistrate Judge has properly applied the applicable law in his lengthy and thorough discussion of Petitioner's asserted grounds for relief.

After reviewing the entire record, the applicable law, the findings and recommendations of the Magistrate Judge, and Petitioner's objections, the court adopts and incorporates the Report and Recommendation by reference in this Order. Respondent's motion for summary judgment (Entry 16) is **granted**. Petitioner's petition for a writ of habeas corpus is dismissed, with prejudice.

IT IS SO ORDERED.

s/Margaret B. Seymour
United States District Judge

Columbia, South Carolina
March 12, 2009

NOTICE OF RIGHT TO APPEAL

Plaintiff hereby is notified that he has the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.